

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 950
99TH GENERAL ASSEMBLY

1948H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 108.170, RSMo, and to enact in lieu thereof one new section relating to the sale of public bonds.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 108.170, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 108.170, to read as follows:

108.170. 1. Notwithstanding any other provisions of any law or charter to the contrary, any issue of bonds, notes, or other evidences of indebtedness, including bonds, notes, or other evidences of indebtedness payable solely from revenues derived from any revenue-producing facility, hereafter issued under any law of this state by any county, city, town, village, school district, educational institution, drainage district, levee district, nursing home district, hospital district, library district, road district, fire protection district, water supply district, sewer district, housing authority, land clearance for redevelopment authority, special authority created under section 64.920, authority created pursuant to the provisions of chapter 238, or other municipality, political subdivision or district of this state shall be negotiable, may be issued in bearer form or registered form with or without coupons to evidence interest payable thereon, may be issued in any denomination, and may bear interest at a rate not exceeding ten percent per annum, and may be sold, at any sale, at the best price obtainable, not less than ninety-five percent of the par value thereof, anything in any proceedings heretofore had authorizing such bonds, notes, or other evidence of indebtedness, or in any law of this state or charter provision to the contrary notwithstanding. Such issue of bonds, notes, or other evidence of indebtedness may bear interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving reasonable notice of such sale, at the best price obtainable, not less than ninety-five percent of the par value thereof; provided, that such bonds, notes, or other evidence of indebtedness may be sold to any

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 agency or corporate or other instrumentality of the state of Missouri or of the federal government
20 at private sale at a rate not exceeding fourteen percent per annum. **Any political subdivision**
21 **issuing debt shall do so through a competitive process unless the political subdivision**
22 **employs the services of a municipal advisor, at which point the political subdivision may**
23 **use a negotiated or competitive process. A municipal advisor shall not be allowed to profit**
24 **financially or otherwise, either directly or indirectly, from the underwriter of a negotiated**
25 **bond issuance.**

26 2. Notwithstanding the provisions of subsection 1 of this section to the contrary, the sale
27 of bonds, notes, or other evidence of indebtedness issued by the state board of public buildings
28 created under section 8.010, the state board of fund commissioners created under section 33.300,
29 any port authority created under section 68.010, the bi-state metropolitan development district
30 authorized under section 70.370, any special business district created under section 71.790, any
31 county, as defined in section 108.465, exercising the powers granted by sections 108.450 to
32 108.470, the industrial development board created under section 100.265, any planned industrial
33 expansion authority created under section 100.320, the higher education loan authority created
34 under section 173.360, the Missouri housing development commission created under section
35 215.020, the state environmental improvement and energy resources authority created under
36 section 260.010, the agricultural and small business development authority created under section
37 348.020, any industrial development corporation created under section 349.035, or the health and
38 educational facilities authority created under section 360.020 shall, with respect to the sales
39 price, manner of sale and interest rate, be governed by the specific sections applicable to each
40 of these entities.

41 3. **Any person who is engaged as a municipal advisor by a political corporation or**
42 **subdivision with respect to a particular issue of securities shall be independent of the**
43 **underwriter of that issue of securities. For the purposes of this section, "municipal**
44 **advisor" shall mean a person registered as a municipal advisor under the rules of the**
45 **United States Securities and Exchange Commission, and "independent" shall have the**
46 **same meaning as defined by the rules of the United States Securities and Exchange**
47 **Commission. In determining the individuals or entities that may serve as a municipal**
48 **advisor, nothing in this section shall be construed to be more restrictive than the definition**
49 **of a municipal advisor as established by the United States Securities and Exchange**
50 **Commission.**

51 4. Notwithstanding other provisions of this section or other law, the sale of bonds, notes
52 or other evidence of indebtedness issued by any housing authority created under section 99.040
53 may be sold at any sale, at the best price obtainable, not less than ninety-five percent of the par
54 value thereof, and may bear interest at a rate not exceeding fourteen percent per annum. The sale

55 shall be a public sale unless the issuing jurisdiction adopts a resolution setting forth clear
56 justification why the sale should be a private sale except that private activity bonds may be sold
57 either at public or private sale.

58 ~~[4-]~~ **5.** Notwithstanding other provisions of this section or law, industrial development
59 revenue bonds may be sold at private sale and bear interest at a rate not exceeding fourteen
60 percent per annum at the best price obtainable, not less than ninety-five percent of the par value
61 thereof.

62 ~~[5-]~~ **6.** Notwithstanding other provisions in subsection 1 of this section to the contrary,
63 revenue bonds issued for airport purposes by any constitutional charter city in this state which
64 now has or may hereafter acquire a population of more than three hundred thousand but less than
65 six hundred thousand inhabitants, according to the last federal decennial census, may bear
66 interest at a rate not exceeding fourteen percent per annum if sold at public sale after giving
67 reasonable notice, at the best price obtainable, not less than ninety-five percent of the par value
68 thereof.

69 ~~[6-]~~ **7.** For purposes of the interest rate limitations set forth in this section, the interest
70 rate on bonds, notes or other evidence of indebtedness described in this section means the rate
71 at which the present value of the debt service payments on an issue of bonds, notes or other
72 evidence of indebtedness, discounted to the date of issuance, equals the original price at which
73 such bonds, notes or other evidence of indebtedness are sold by the issuer. Interest on bonds,
74 notes or other evidence of indebtedness may be paid periodically at such times as shall be
75 determined by the governing body of the issuer and may be compounded in accordance with
76 section 408.080.

77 ~~[7-]~~ **8.** Notwithstanding any provision of law or charter to the contrary:

78 (1) Any entity referenced in subsection 1 or 2 of this section and any other political
79 corporation of the state which entity or political corporation has an annual operating budget for
80 the current year exceeding twenty-five million dollars may, in connection with managing the cost
81 to such entity or political corporation of purchasing fuel, electricity, natural gas, and other
82 commodities used in the ordinary course of its lawful operations, enter into agreements providing
83 for fixing the cost of such commodity, including without limitation agreements commonly
84 referred to as hedges, futures, and options; provided that as of the date of such agreement, such
85 entity or political corporation shall have complied with subdivision (3) of this subsection; and
86 further provided that no eligible school, as defined in section 393.310, shall be authorized by this
87 subsection to enter into such agreements in connection with the purchase of natural gas while the
88 tariffs required under section 393.310 are in effect;

89 (2) Any entity referenced in subsection 1 or 2 of this section and any other political
90 corporation of the state may, in connection with its bonds, notes, or other obligations then

91 outstanding or to be issued and bearing interest at a fixed or variable rate, enter into agreements
92 providing for payments based on levels of or changes in interest rates, including without
93 limitation certain derivative agreements commonly referred to as interest rate swaps, hedges,
94 caps, floors, and collars, provided that:

95 (a) As of the date of issuance of the bonds, notes, or other obligations to which such
96 agreement relates, such entity or political corporation will have bonds, notes, or other obligations
97 outstanding in an aggregate principal amount of at least fifty million dollars; and

98 (b) As of the date of such agreement, such entity's or political corporation's bonds, notes,
99 or other obligations then outstanding or to be issued have received a stand-alone credit rating in
100 one of the two highest categories, without regard to any gradation within such categories, from
101 at least one nationally recognized credit rating agency, or such entity or political corporation has
102 an issuer or general credit rating, in one of the two highest categories, without regard to any
103 gradation within such categories, from at least one nationally recognized credit rating agency;
104 and

105 (c) As of the date of such agreement, such entity or political corporation shall have
106 complied with subdivision (3) of this subsection;

107 (3) Prior to entering into any agreements pursuant to subdivision (1) or (2) of this
108 subsection, the governing body of the entity or political corporations entering into such
109 agreements shall have adopted a written policy governing such agreements. Such policy shall
110 be prepared by integrating the recommended practices published by the Government Finance
111 Officers Association or comparable nationally recognized professional organization and shall
112 provide guidance with respect to the permitted purposes, authorization process, mitigation of risk
113 factors, ongoing oversight responsibilities, market disclosure, financial strategy, and any other
114 factors in connection with such agreements determined to be relevant by the governing body of
115 such entity or political corporation. Such entity or political corporation may enter into such
116 agreements at such times and such agreements may contain such payment, security, default,
117 remedy, and other terms and conditions as shall be consistent with the written policy adopted
118 under this subdivision and as may be approved by the governing body of such entity or other
119 obligated party, including any rating by any nationally recognized rating agency and any other
120 criteria as may be appropriate;

121 (4) Nothing in this subsection shall be applied or interpreted to authorize any such entity
122 or political corporation to enter into any such agreement for investment purposes or to diminish
123 or alter the special or general power any such entity or political corporation may otherwise have
124 under any other provisions of law including the special or general power of any interstate
125 transportation authority.

126 **9. The state treasurer shall make available to municipalities, political subdivisions,**
127 **or districts listed under subsection 1 of this section guidance and information, including**
128 **best practices resources published by a national association of government finance officers**
129 **on debt issuance, to aid such entities with the process of issuing debt and to aid such**
130 **entities in awarding bonds to the best bidder.**

✓